

### **Remarks**

The Applicant would like to thank the Office for the careful consideration given the present application in the Detailed Action mailed 05/25/2007. With the foregoing amendments and the ensuing remarks, the Applicant has endeavored to respond most properly to each of the points raised by the Office to ensure that the specification and claims now presented are allowable in all respects. With this in mind, the Applicant respectfully requests that the Office review and allow the current specification and claims.

In summary, claims 2-7, 9, 10, 12-16, 18, 20-23, 26, 28-31, 33-38, 40, and 69-73 are pending for consideration. Claims 10, 15, 18, 20, 23, 26, 40, and 73 stand independently. Claims 15, 16, 40, 69, 70, and 73 have been allowed.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 2, 9, 10, 13, and 14 were rejected as obvious in light of U.S. Patent No. 6,343,264 to Fenton et al. when combined with U.S. Patent App. Pub. No. 2006/0031486 of Miner; U.S. Patent App. Pub. No. 2003/0051255 of Bulman et al.; and U.S. Patent No. 6,243,740 to Minneman et al. However, the Office noted that the rejection of claim 10 could be overcome by amending the subparagraph “wherein the image procuring device, the memory device, the processor, and the display device are specially calibrated and coordinated to work together to ensure that a colors and input images viewed and procured in situ by the image procuring device will be identically displayed on the display device including the input images in an in situ depiction” to require that “the image procuring device, the memory device, the processor, and the display device are specially calibrated and automatically coordinated”. In response, the

Applicant has amended claim 10 pursuant to the Office's suggestion. Accordingly, the Applicant submits that claim 10 and dependent claims 2-7, 9, and 12-14 are in condition for allowance.

It will be further noted that claim 10 requires "a plurality of reference images retained by the memory device wherein the reference images include structural elements, flooring, ceiling elements, and decorative elements". No cited reference teaches or suggests retaining the specified reference images. The reference images noted by the Office in Fenton are not "retained by the memory device" as claim 10 demands. For example, the "ceiling elements" referenced by the Office as being found at col. 3, lines 7-9 of Fenton merely comprises the ceiling of the *actual* "corporate resource room". Therefore, the ceiling of the resource room in Fenton is not a reference image retained in memory as claim 10 requires. Accordingly, even beyond the amendment made in response to the Office's suggestion, a rejection of claim 10 would not be supported for this further reason.

Dependent claim 13 has also been amended to differentiate further from the cited references. As amended, claim 13 requires that the means for suggesting reference images acts "automatically" and that the "user-selected parameter comprises a structural style or mood effect". In Fenton, the "universal color code" cannot reasonably be said to comprise a "structural style or mood effect" as claim 13 specifies. As such, claim 13 is patentable even beyond base claim 10.

Claims 18, 22, 23, 71 and 72 were rejected as obvious based on Fenton; U.S. Patent No. 5,986,670 to Dries; and U.S. Patent No. 5,802,492 to DeLorme. Claims 18 and 23 have again

been amended to ensure their patentability over the cited references. Amended claim 18 requires “a plurality of reference images retained by the memory device *wherein the reference images include building elements, decorative elements, and colors*” and that “the means for displaying displayed elements and objects in a unified size scale *automatically adapts* the input images and the reference images to a unified, substantially identical scale”. (Emphasis supplied.) Similarly, claim 23 requires “a plurality of reference images retained by the memory device wherein the reference images include building elements, decorative elements, and colors” and “a means for automatically adapting the input images and the reference images to a unified, substantially identical scale”.

Even when combined, Fenton, Dries, and DeLorme fail to anticipate or render obvious the invention as set forth in claims 18 and 23. As the Office noted, Fenton and Dries do not disclose the claimed means for automatically adapting reference images—images claimed as being retained by the memory device—to a unified, substantially identical scale with input images procured by the image procuring device. It is further submitted that DeLorme’s “routing and positioning system” does not teach or render obvious the claimed invention, particularly when one bears in mind that the plurality of reference images are now claimed to “include building elements, decorative elements, and colors”.

In relevant part, DeLorme merely describes providing “constant-scale maps”. The mapping technology of DeLorme cannot in fairness be said to teach one of ordinary skill in the art to *automatically* scale reference images comprising “building elements, decorative elements, and colors” in relation to input images procured by a camera or other image procuring device. For example, one skilled in the art would not find it obvious in light of even the combined

references of Fenton, Dries, and DeLorme to automatically bring a couch as in input image to a unified, substantially identical scale with a room structure as a reference image.

It is equally critical to note that DeLorme merely discloses “constant-scale maps”. Even if one were to disregard Applicant’s specifically claimed reference images, the DeLorme disclosure makes no mention whatsoever of *automatically* bringing reference images and input images to a unified scale as claims 18 and 23 demand. A “constant-scale map” is merely a map having a constant scale. DeLorme does not even contemplate *adjusting* maps of different scales to a unified, identical scale. Even more clearly, DeLorme does not teach or suggest bringing an input image and a reference image (including as is required in Applicant’s amended claims “building elements, decorative elements, and colors”) to a unified, substantially identical scale within the display of a display device as required by claims 18 and 23. Indeed, it is submitted that DeLorme would most properly be read to teach away from the claimed invention. DeLorme would teach one skilled in the art to employ “constant-scale maps”, and it would discourage automatically bringing reference images and input images to a unified, substantially identical scale.

Therefore, DeLorme’s disclosure of a constant-scale map does not render the claimed invention obvious. Accordingly, the cited art does not support a proper obviousness rejection and does not prevent the patentability of claims 18 and 23. Their reconsideration and allowance are respectfully requested.

The Applicant further submits that dependent claim 22 is patentable in that it depends from allowable base claim 23. Also, claim 22 enjoys independent patentability because it further specifies “a means for providing a cost estimation as to the cost of a potential alteration,

redcoration, addition, or construction of or to a given element or object.”

Independent claim 20 was rejected as obvious based on the combined teachings of Fenton and Miner. However, the Office did note that the current rejection could be overcome by amending the corresponding claim subparagraph to read as follows:

wherein the image procuring device, the memory device, the processor, and the display device are specially calibrated and automatically coordinated to work together to ensure that colors and input images viewed and procured in situ by the image procuring device will be identically displayed on the display device including the input images in an in situ depiction;

Accordingly, the Applicant has so amended claim 20 whereby it is believed to be in condition for allowance.

It will be further noted that claim 20 requires “a means for providing a cost estimation as to the cost of a potential alteration, redecoration, addition, or construction of or to a given element or object”. Contrary to the Office’s indication, Fenton’s disclosure of ensuring that “best-selling colors will be available in every needed price” suggests nothing relevant to the claimed means for providing of a cost estimation as claims 20 and 22 require. Fenton’s disclosure merely describes an inventory control system for preventing shortages. Cost estimations are not contemplated, and it is still clearer that Fenton cannot support a proper obviousness rejection of claim 20. Therefore, the Office’s reconsideration and allowance of claim 20 are most respectfully requested.

Turning to independent claim 26 from which claims 28-31 and 33-38 depend, the Applicant respectfully submits that, even assuming the combination of Fenton, Branham et al.,

and Goldwesser to be proper, the combined references do not support a rejection of claim 26. It will be noted that claim 26 has been amended to require, among other things:

a means for providing a display of simulated light sources on the display device to bathe the displayed image in a source of light wherein the means for providing simulated light sources comprises a means for controlling a type of light source to be simulated on the display device from among a plurality of different types of light sources;

Goldwesser merely discloses a “simulated light source” or “simulated light sources”. col. 28, line 3 and col. 9, lines 1-13. Nowhere does Goldwesser teach or suggest enabling a user to control a *type* of light source to be simulated from among plural different *types* of light sources as claim 26 requires.

Enabling the simulation of different types of light sources *on the display device* is a fundamental difference between the claimed invention and the prior art. As is discussed more particularly in Applicant’s original specification, controlling different types of light sources enables one to simulate different lighting situations, such as different times of day and different individual types and combinations of light sources. Such an ability would not be possible under the teachings of the cited art, including Goldwesser.

As the Office also recognized, Fenton does not disclose Applicant’s claimed “means for providing a display of simulated light sources on the display device to bathe the displayed image in a source of light.” Fenton merely discloses “lighting options” that are disposed within a “color room 22” that can include “incandescent fixtures”, “a skylight and/or full spectrum fluorescent lights”. Fenton: col. 7, lines 33-39. Fenton’s light sources are actual sources of light in the room. Nowhere does Fenton teach or suggest simulating types of light sources “*on [a] display device*” as claim 26 demands. The various lights mentioned in Fenton merely exist *in*

*fixed positions* in the color room that seeks to provide “an environment for presenting and using the color system ...” Fenton: col. 7, lines 26-27. The “incandescent fixtures”, “skylight”, and “full spectrum fluorescent lights” in Fenton are not *simulated* on a display device. Instead, they are actual light sources fixed in their respective locations in a room, and their mere inclusion in a room under Fenton cannot properly be interpreted to teach or suggest Applicant’s selective simulation of different types of light on a display device.

Furthermore, as already appreciated by the Office, Branham fails to disclose providing different types of light sources. Branham merely discloses providing “direct and ambient virtual light sources”. Branham et al.: col. 7, line 34. Nowhere does Branham contemplate simulating different *types* of light sources on a display device. Therefore, claim 26 is patentable over the cited art.

Claims 28 and 33 are also patentable over the properly interpreted prior art. The Office notes the incandescent fixtures, skylight, fluorescent lights, and bright indirect daylight mentioned in Fenton. However, these are *actual, fixed* light sources, not light sources *simulated* on a display device as claims 28 and 33 require. The difference is clear and fundamental such that an obviousness rejection of claims 28 and 33 is not proper.

The added limitations of claims 29, 30, and 31 add even further patentability. Since the prior art fails to teach or suggest simulating different types of light on a display device, nowhere is there a teaching of providing a mixed light display situation as claims 29 specifies. Even more particularly, claim 30 requires that a user can “adjust the relative intensity of displayed light sources”. Contrary to the Office’s assertion, Roustaei simply does not teach or render obvious enabling “a user to select a mixed light display situation.” The Applicant again submits that

Roustaei in Paragraph 0248 merely discloses *adjusting or reacting to* variable lighting conditions, not the *simulation* of mixed light situations or as actual lighting conditions exist in situ as captured by specially calibrated and coordinated equipment designed to work together as claim 29 demands. More particularly, Roustaei writes, “Color modification can also *adjust to* variable-lighting conditions” whereby it is clear that Roustaei merely *reacts* to lighting conditions and does not simulate the same. Roustaei merely attempts to show the viewer what he or she wants to see and does not even purport to attempt to reproduce reality with the exactness contemplated by the Applicant. Since Roustaei does not teach or suggest simulating mixed light situations, it cannot properly form the basis for a rejection of claim 29.

Furthermore, since Roustaei merely teaches reacting or adjusting to variable lighting conditions, it cannot fairly be said that Roustaei allows a user to adjust the “relative intensity of displayed lights sources” as is required by claim 30. Merely reacting to variable lighting conditions does not anticipate or render obvious simulating mixed light situations and, even more clearly, does not render obvious Applicant’s claimed ability to adjust the relative intensity or directional source of displayed light sources. These arguments apply with equal force to claims 34 and 35 such that the rejections of claims 29, 30, 34, and 35 are without proper basis.

A rejection of claim 31 based on Fenton and Branham is wholly unsupported. To conclude that Fenton’s disclosure of “classification, selection and visualization of other floor, window, and wall coverings and all other products that come in various colors” prevents the patentability of a claim requiring “a means for controlling a location and orientation of the light source to be simulated on the display device” represents adding teachings to the art that simply do not exist. No person of ordinary skill in the art would find it obvious to control the locations



and orientations of simulated light sources on a display device from the quoted passage. Applicant's claim limitation is fundamentally different than the cited portion of Fenton such that a rejection based thereon cannot in fairness be made. The Applicant urges the Office to reconsider the rejection and allow claim 31.

### **Conclusion**

Because no cited reference identically discloses the claimed invention and because there is no suggestion in the art to modify or combine any of the prior art references to approximate the claimed invention, the Applicant most respectfully submits that the claims now presented are patentable over the cited art. With this in mind, the Office's reconsideration and allowance of the specification and remaining claims 2-7, 9, 10, 12-16, 18, 20-23, 26, 28-31, 33-38, 40, and 69-73 are respectfully requested.

The Applicant believes that all issues raised in the Detailed Action have been responded to fully. However, if, after consideration of the above amendments and comments, there remain any open issues in this application that possibly can be resolved by a telephone interview, then the Applicant's undersigned attorney most respectfully requests that he be called to discuss and attempt to resolve those issues.

October 25, 2007

Respectfully submitted,

/Thomas P. O'Connell Reg. No. 37,997/

Thomas P. O'CONNELL, Esq.  
*Attorney for Applicant*  
Customer No. 20738  
(781) 643-1845

**Certificate of Transmission**

I hereby certify that this correspondence is being to the United States Patent and Trademark Office by use of the EFS-Web on this the 25<sup>th</sup> of October, 2007.

/Thomas P. O'Connell Reg. No. 37,997/  
Thomas P. O'Connell, Esq.

October 25, 2007  
Date